

ESTTA Tracking number: **ESTTA730943**

Filing date: **03/02/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Endless LLP
Granted to Date of previous extension	03/02/2016
Address	3 Whitehall Quay Leeds, West Yorkshire, LS1 4BF UNITED KINGDOM
Attorney information	Alexandra MacKay Stites & Harbison, PLLC 401 Commerce Street Suite 800 Nashville, TN 37219 UNITED STATES alexandra.mackay@stites.com, TTABdocketing@stites.com Phone:615 782 2200

### Applicant Information

Application No	86611071	Publication date	11/03/2015
Opposition Filing Date	03/02/2016	Opposition Period Ends	03/02/2016
Applicant	Radius Intelligence, Inc. 114 Sansome Street, 10th Floor San Francisco, CA 94104 UNITED STATES		


### Goods/Services Affected by Opposition

Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: preparing business and marketing reports, namely, providing custom sales reports for others; business evaluation of suppliers of goods and services with regard to overall financial, operational and risk level; providing business information in the field of sales and credit reports, namely, identifying, historical and operating information to business entities; preparing financial reports for others
Class 036. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: providing financial and credit information to business entities via a global computer network; financial analyses, namely, credit risk analysis; providing financial information on credit and debt collections of businesses; credit rating services, namely, furnishing credit rating reports; financial services, namely, providing information and analysis of the credit stability and financial risk of businesses; credit reporting and collection services; financial analysis; credit rating services, namely, providing custom credit reports
Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: providing temporary use of online, non-downloadable software for analysis of data in the field of business intelligence, corporate performance management, business data analytics, and business data collection

## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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## Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	86881345	Application Date	01/20/2016
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	E ENDLESS		
Design Mark			
Description of Mark	The mark consists of The letter E in red with a stylized hoop in gold replacing the middle prong of the letter above the word ENDLESS in gold.		
Goods/Services	<p>Class 035. First use: First Use: 2008/02/25 First Use In Commerce: 2008/02/25 business appraisal services</p> <p>Class 036. First use: First Use: 2008/02/25 First Use In Commerce: 2008/02/25 Financial affairs and monetary affairs, namely, financial information, management and analysis services; private equity fund investment services; management of alternative investment funds; investment management; financing services; financing management services; financial valuation of personal property; financial valuations; financial asset management; financing and acquisition of loans; financial restructuring services; financial services, namely, debt and capital restructuring; information, advisory, and consultancy services relating to finance and investments</p>		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ENDLESS		
Goods/Services	Financial affairs and monetary affairs, namely, financial information, management and analysis services; private equity fund investment services; management of alternative investment funds; investment management; financing services; financing management services; financial valuation of personal property; financial valuations; financial asset management; financing and acquisition of loans; financial restructuring services; financial services, namely, debt and capital restructuring; information, advisory, and consultancy services relating to finance and investments		

Attachments	86881345#TMSN.png( bytes ) Notice of Opposition(2).PDF(63062 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Alex/
Name	Alexandra MacKay
Date	03/02/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
IN THE TRADEMARK TRIAL AND APPEAL BOARD**

<b>Endless, LLP.</b>	)	
	)	
Opposer,	)	
	)	
v.	)	Opp. No. _____
	)	App. No. 86/611,071
<b>Radius Intelligence, Inc.</b>	)	
	)	
Applicant.	)	Mark: OPPORTUNITIES ARE ENDLESS
	)	

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**NOTICE OF OPPOSITION**

Endless, LLP, a United Kingdom limited liability partnership located at 3 Whitehall Quay, Leeds, West Yorkshire United Kingdom LS1 4BF ("Endless"), believes that it is or will be damaged by registration of the mark shown in App. Ser. No. 86/611,071 and hereby opposes registration of that mark based on likelihood of confusion.

As grounds for opposition, Endless states as follows:

1. Endless opposes App. Ser. No. 86/611,071 (the "Opposed Application"), which was filed on April 27, 2015 on behalf of Radius Intelligence, Inc. ("Radius") on an intent-to-use basis under Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b), seeking registration of the mark OPPORTUNITIES ARE ENDLESS in connection with:

Class 35: preparing business and marketing reports, namely, providing custom sales reports for others; business evaluation of suppliers of goods and services with regard to overall financial, operational and risk level; providing business information in the field of sales and credit reports, namely, identifying, historical and operating information to business entities; preparing financial reports for others

Class 36: providing financial and credit information to business entities via a global computer network; financial analyses, namely, credit risk analysis; providing financial information on credit and debt collections of businesses; credit rating services, namely, furnishing credit rating reports; financial services, namely, providing information and analysis of the credit stability and financial risk of

businesses; credit reporting and collection services; financial analysis; credit rating services, namely, providing custom credit reports

Class 42: providing temporary use of online, non-downloadable software for analysis of data in the field of business intelligence, corporate performance management, business data analytics, and business data collection

2. The Opposed Application was published for opposition on November 3, 2015.

3. On December 3, 2015, Endless filed a request for extension of time to oppose the Opposed Application with the Trademark Trial and Appeal Board (the “TTAB”). The TTAB granted this request on the same day, extending Endless’ time to oppose registration of the Opposed Application until March 2, 2016.

4. Endless is the owner of the marks ENDLESS and E ENDLESS (& design) for use in connection with financial affairs and monetary affairs, namely, financial information, management and analysis services; financing services; financial services, namely, debt and capital restructuring; information, advisory, and consultancy services relating to finance and investments, and related services. Endless has used the marks ENDLESS and E ENDLESS (& design) in commerce in the U.S. continuously since at least as early as February 25, 2008.

5. February 28, 2008 predates the filing of the Opposed Application as well as any use in commerce by Radius of the OPPORTUNITIES ARE ENDLESS mark.

6. Through widespread use of the ENDLESS and E ENDLESS (& design) marks in the U.S., Endless’ ENDLESS and E ENDLESS (& design) marks have developed considerable goodwill and customer recognition in connection with financial management and analysis services, financial asset management, investment management, and related services.

7. Endless began using the ENDLESS and E ENDLESS (& design) marks before Radius filed the Opposed Application and before Radius commenced use of its OPPORTUNITIES ARE ENDLESS mark.

8. Endless is the owner of App. Ser. No. 86/881,345 on the Principal Register for the mark E ENDLESS (& design), filed on January 20, 2016 on both in-use (claiming a first use date at least as early as February 25, 2008) and foreign registration bases under Sections 1(a) and 44(e) of the Lanham Act for use in connection with:

Class 35: business appraisal services

Class 36: Financial affairs and monetary affairs, namely, financial information, management and analysis services; private equity fund investment services; management of alternative investment funds; investment management; financing services; financing management services; financial valuation of personal property; financial valuations; financial asset management; financing and acquisition of loans; financial restructuring services; financial services, namely, debt and capital restructuring; information, advisory, and consultancy services relating to finance and investments

9. Endless' application has yet to be examined by the PTO, but Endless believes that the Opposed Application may be cited as an obstacle to registration of Endless' application.

10. Endless has priority as the senior user of the ENDLESS and E ENDLESS (& design) marks.

11. Because the Opposed Application is for a mark that includes the term ENDLESS and seeks registration of the mark for financial analysis, financial services, and related services, consumers are likely to be confused as to the source of the services and/or mistakenly attribute them to the same source.

12. Any defects, objections, or faults found with Radius' services rendered under its OPPORTUNITIES ARE ENDLESS mark could inflict upon and injure the reputation of Endless and the goodwill established in its ENDLESS and E ENDLESS (& design) marks.

13. The grant of registrations to Radius of its alleged OPPORTUNITIES ARE ENDLESS mark would be in derogation of Endless' prior rights in its ENDLESS and E ENDLESS (& design) marks and thereby cause damage and injury to Endless and cause

confusion of the relevant purchasing public, possibly including the inability of Endless to obtain a federal trademark registration for its E ENDLESS (& design) mark.

14. Radius' alleged mark OPPORTUNITIES ARE ENDLESS so resembles Endless' previously used ENDLESS and E ENDLESS (& design) marks as to be likely, when used in connection with Radius' services, to cause confusion, mistake, or deception and thereby fall within the proscription of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and should be denied registration.

WHEREFORE, Endless believes that it would be damaged by grant to Radius of registration on Application Serial No. 86/611,071 for its OPPORTUNITIES ARE ENDLESS mark and prays that this opposition be sustained and the registration be denied.

Dated: March 2, 2016

Respectfully submitted,

s/ Alex

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*Attorney for Opposer, Endless LLP*

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION was served on counsel for Applicant, this 2<sup>nd</sup> day of March, 2016, by sending it via email and certified First Class Mail, postage prepaid, to:

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s/Alex  
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Alexandra MacKay